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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**THE SIERRA CLUB and ENVIRONMENTAL  
INTEGRITY PROJECT,**

Plaintiffs,

vs.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,**

Defendant.

Case No. C-11-0846-MEJ

**THIRD SUPPLEMENTAL JOINT CASE  
MANAGEMENT REPORT**



1 This is an action brought by Plaintiffs pursuant to the Freedom of Information Act, 5 U.S.C. §  
2 552, to compel production of documents. The information request upon which this suit is based, sought  
3 information submitted to defendant relating to the operations of coal-fired power plants owned by the  
4 Luminant Corporation.

5 After the parties completed briefing cross-motions for summary judgment, but before oral argu-  
6 ment on same, on May 20, 2012, the Court vacated the scheduled hearing and ordered the parties to  
7 meet and confer in her chambers on May 30, 2012. Dkt. No. 50. After fruitful discussion in chambers,  
8 the parties agreed to continue with informal settlement discussions in an effort to resolve this matter  
9 without further litigation. Accordingly, the parties engaged in a number of direct and informal settlement  
10 conference calls and have exchanged a settlement proposal. Additionally, as the Parties informed the  
11 Court, recent EPA enforcement activities involving Luminant have impacted EIP and Sierra Club's in-  
12 terest in the documents at issue in this matter. Because the parties required additional time in which to  
13 explore possible resolution of this case, when they reported back to the Court on September 20, 2012,  
14 they requested that the case be stayed until November 21, 2012 by which time they would inform the  
15 Court of the status of their settlement efforts. Dkt. No. 52. The Court so ordered. Dkt. No. 53.

16 The parties reported to the court on November 21, 2012, that they desired additional time to ex-  
17 plore a possible settlement of this case. Dkt. No. 54. Accordingly, the Court set December 21, 2012 as a  
18 deadline for the parties to report their progress in this regard. Dkt. No. 55.

19 The parties then reported to the court on December 19, 2012, that they desired an additional 60  
20 days to explore a possible settlement of this case. Dkt. No. 56. Accordingly, the Court set February 21,  
21 2013 as a deadline for the parties to report their progress in this regard. Dkt. No. 57. The Parties apolo-  
22 gize to the Court that they did not submit this report by February 21, 2013.

23 The Parties have continued their dialogue, believe they are making substantive progress toward  
24 reaching a settlement, and are closer to a general consensus on how to settle the case. However, because  
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26  
27  
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1 of the complexity of the issues involved, the Parties require additional time to negotiate the details of the  
2 settlement terms and obtain approval for a final settlement from their respective organizations. They  
3 therefore desire additional time in which to explore a negotiated resolution to this dispute.

4 Accordingly, the Parties request that they be provided an additional 90 days in which to attempt  
5 to conclude their settlement negotiations and report back to the Court on the status of same no later than  
6 May 28, 2013.

7 Respectfully submitted for the Court's consideration, this 27<sup>th</sup> day of February, 2013.

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18 s/ Abraham Simmons  
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22 The parties shall file an updated status report by June 11, 2013.  
23 Dated: March 5, 2013

